

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect the Privacy of Maine Residents under the Driver's License Laws**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 1 MRSA §402, sub-§3, ¶N,** as amended by PL 2005, c. 381, §2, is further amended to read:

N. Social security numbers in the possession of the Department of Inland Fisheries and Wildlife; and

**Sec. 2. 1 MRSA §402, sub-§3, ¶O,** as amended by PL 2007, c. 597, §1, is further amended to read:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; and

**Sec. 3. 1 MRSA §402, sub-§3, ¶P** is enacted to read:

P. Social security numbers in the possession of the Secretary of State.

**Sec. 4. 29-A MRSA §1301, sub-§2-A,** as enacted by PL 2007, c. 648, §1, is repealed.

**Sec. 5. 29-A MRSA §1301, sub-§6-A** is enacted to read:

**6-A. Confidentiality.** The Secretary of State may not disseminate information collected under subsection 6 to any entity without specific authorization from the Legislature. For every willful violation of this subsection, a person commits a civil violation for which a fine of not more than \$500 may be adjudged.

**Sec. 6. 29-A MRSA §1401, sub-§6,** as enacted by PL 1999, c. 470, §24, is amended to read:

**6. Distribution of digital image.** Digital image information used to produce a license is confidential and may be distributed only as required to comply with the provisions of 18 United States Code, ~~Chapter 123~~Section 2721, except that digital image information may not be distributed ~~to~~for sales and marketing companies~~purposes~~ or to nongovernmental entities or to the public. A violation of this subsection is a violation of section 2103, subsection 4.

**Sec. 7. 29-A MRSA §1401, sub-§9** is enacted to read:

**9. Retention of digital information.** The storage, recording or retention of digital image information used to produce a license is prohibited.

**Sec. 8. 29-A MRSA §1401, sub-§10** is enacted to read:

**10. Use of biometric technology.** The Secretary of State may not use biometric technology, including, but not limited to, retinal scanning, facial recognition or fingerprint technology to produce a license or nondriver identification card. This subsection does not apply to digital photographs.

**Sec. 9. 29-A MRSA §1406, sub-§9**, as enacted by PL 2007, c. 648, §2, is repealed.

**Sec. 10. 29-A MRSA §1410, sub-§8**, as enacted by PL 2007, c. 648, §3, is repealed.

**Sec. 11. 29-A MRSA §1410, sub-§9**, as enacted by PL 2007, c. 648, §4, is repealed.

**Sec. 12. PL 2007, c. 648, §5** is repealed.

**Sec. 5. Rulemaking; legal presence for license and identification cards; draft rules.** No later than November 15, 2008, the Secretary of State shall adopt rules governing what documents constitute valid documentary evidence to establish legal presence pursuant to the Maine Revised Statutes, Title 29-A, section 1301, subsection 2-A and Title 29-A, section 1410, subsection 8. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 13. PL 2007, c. 648, §6** is repealed.

**Sec. 6. Participation in verification program; report.** Notwithstanding the Maine Revised Statutes, Title 29-A, section 1411, the Secretary of State shall by December 1, 2009 participate in the federal Systematic Alien Verification for Entitlements Program maintained by United States Citizenship and Immigration Services for the exclusive purpose of verifying the lawful presence of noncitizen applicants for driver's licenses or nondriver identification cards.

No later than January 30th of each year, beginning in 2010, the Secretary of State shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters regarding the operation and effectiveness of the Systematic Alien Verification for Entitlements Program.

**Sec. 14. PL 2007, c. 648, §7** is repealed.

**Sec. 7. Development of method to avoid duplication.** Notwithstanding the Maine Revised Statutes, Title 29-A, section 1411, the Secretary of State shall study the most cost-effective way, such as facial recognition or fingerprint technology, to ensure that an applicant does not have more than one driver's license or nondriver identification card issued by the State. The Secretary of State shall make a written report of findings and recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than October 1, 2009.

**Sec. 15. PL 2007, c. 648, §8** is repealed.

**Sec. 8. Photographs.** Notwithstanding the Maine Revised Statutes, Title 29-A, section 1411, the Secretary of State shall study the most cost-effective way to develop and implement policies and procedures in order to take and maintain photographs of applicants at the time an application for a driver's license or nondriver identification card is submitted. The Secretary of State shall make a written report of findings and recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than October 1, 2009.

**Sec. 16. PL 2007, c. 648, §9** is repealed.

**Sec. 9. Federal REAL ID Act of 2005; repeal.** If the United States Congress repeals the federal REAL ID Act of 2005, the Secretary of State shall submit proposed legislation to the joint standing committee of the Legislature having jurisdiction over transportation matters that returns Maine law regarding the issuance of driver's licenses and nondriver identification cards to what it was prior to the effective date of this Act. Upon receipt and review of that proposed legislation, the joint standing committee may submit a bill to the session of the Legislature in which the Secretary of State submits that proposed legislation.

**Sec. 17. Allocation of funds.** Cost savings as a result of this Act must be allocated to the Highway and Bridge Capital Program within the Department of Transportation.

## SUMMARY

This bill is a partial repeal of current Maine law enacted to comply with the requirements of the federal REAL ID Act of 2005.

This bill:

1. Repeals the requirement that the Secretary of State issue driver's licenses and nondriver identification cards only to individuals who present documentary evidence of legal presence in the United States;
2. Exempts social security numbers in the possession of the Secretary of State from the definition of public records under Maine's Freedom of Access Law;
3. Provides that the Secretary of State may not disseminate social security numbers to any entity without legislative authorization;
4. Restricts the distribution and retention of digital information used to produce a license;
5. Prohibits the Secretary of State from use of biometric technology, such as retinal scans, facial recognition or fingerprint technology but not including digital photographs in the production or storing of license information;
6. Repeals the requirement that the Secretary of State participate in the federal Systematic Alien Verification for Entitlements Program, the centralized database system used and maintained by the United States Citizenship and Immigration Services;
7. Repeals the requirement that the Secretary of State study the most cost-effective facial recognition or fingerprint technology;

8. Provides that cost savings as a result of this Act must be allocated to the Highway and Bridge Capital Program within the Department of Transportation; and

9. Does not change the current requirement that an applicant for a Maine driver's license or state identification card must provide proof of residency.